

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SHAWN ARMSTRONG)	Case No. 4:08 CV 1160
)	
Plaintiff,)	Judge Peter C. Economus
)	INTERIM
vs.)	REPORT AND RECOMMENDATION
)	
DENNIS WATKINS,)	
)	
Defendant.)	Magistrate Judge James S. Gallas
)	

This matter is before the undersigned upon referral for general pretrial supervision. On May 9, 2008 the complaint was filed in this matter but plaintiff has yet to serve defendants John Mandopoulos, Donald Bishop, City of Warren, Ohio, Melanie Gambill and John Does 1-4. On July 17, 2008 an order was issued informing plaintiff of the 120 day time requirement under Rule 4(m) for service of process and notifying him of the September 6, 2008 deadline.

Rule 4(m) requires that service of the summons and complaint must be made *within* 120 days. While Rule 4(m) allows for an extension of time upon a showing of “good cause,” plaintiff was provided with the text of the rule and has neither served the remaining defendants nor shown good cause to excuse his apparent inability to serve. Corrective action should have been taken since plaintiff had been apprised of the deficiency of its service of process in July and had adequate time to correct this deficiency.

Accordingly, IT IS RECOMMENDED that the court dismiss the unserved defendants John Mandopoulos, Donald Bishop, City of Warren, Ohio, Melanie Gambill and John Does 1-4 without prejudice due to the deficiency of service of process pursuant to Rule 4(m).

s/James S. Gallas
United States Magistrate Judge

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of mailing of this notice. Failure to file objections within the specified time WAIVES the right to appeal the Magistrate Judge's recommendation. *See, United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

November 14, 2008